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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/727,941

12/04/2003

Antonio Gutierrez

2003L007

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Law Department
1900 East Linden Avenue
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Linden, NJ 07036-0710

12/15/2008

EXAMINER

LANG, AMY T

ART UNIT

PAPER NUMBER

3731

MAIL DATE

DELIVERY MODE

12/15/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte ANTONIO GUTIERREZ, JACOB EMERT, ANDREW J.D.
RITCHIE, and MICHAEL MINOTTI

Application 10/727,941
Technology Center 3700

Mailed: December 15, 2008

Before HARRY HORTON, *Discipline Team Paralegal*.
HORTON, *Discipline Team Paralegal*.

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on October 16, 2008. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matter(s) requiring attention prior to docketing.

ANSWER, STATUS OF AMENDMENTS

A review of the file finds that the status of the Amendments as provided in the Examiner's Answer mailed January 22, 2008 under the heading "Status of Amendments After Final" is unclear and/or is not consistent with the last entered amendment of record in accordance with 37 C.F.R. § 41.37(c)(1)(iv) (2007).

A review of the file finds that an After Final Amendment was filed November 6, 2007. An Advisory Action was never mailed notifying Appellants that the After Final Amendment was entered. The Examiner has not provided the correct statement as to the status of the After Final Amendment filed November 6, 2007 and/or the Examiner's statement regarding the status of the After Final amendment is unclear or incorrect. The Appeal Brief filed November 7, 2007 states that the Amendment After Final filed November 6, 2007 was not entered. The Examiner agrees that the Amendment After Final was not entered (See Answer at 2). However, the Examiner approved entry of the After Final Amendment on January 22, 2008 by marking a copy of the Amendment as "entry approved." Correction of the status of amendment(s) filed subsequent to Final rejection is required.

CONCLUSION

Accordingly, it is ORDERED that the application is returned to the Examiner:

- 1) to vacate the Examiner's Answer mailed January 22, 2008;

2) to generate a new Examiner's Answer setting forth the correct status of the After Final Amendment(s) and to correct other sections of the Answer as may be required;

3) to generate an Advisory Action corresponding to the After Final Amendment received November 6, 2007;

4) to have said Advisory Action made of record in the instant Image File Wrapper (IFW) application; and

5) for such further action as may be required.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

hh

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